

HOUSE BILL No. 1139

DIGEST OF INTRODUCED BILL

Citations Affected: IC 12-10-6-1; IC 12-10-6-2; IC 12-15-7-2; IC 12-15-32-6.

Synopsis: Personal needs allowance. Provides that certain elderly or disabled individuals who reside in a county home, room and board assistance facility, hospital, nursing facility, or community residential facility for the developmentally disabled are allowed to retain a monthly personal allowance of \$62.35 beginning July 1, 1999. Requires the monthly personal allowance amount to be adjusted before October 1, 1999, and annually thereafter using the Consumer Price Index.

Effective: July 1, 1999.

Cook, Leuck

January 6, 1999, read first time and referred to Committee on Ways and Means.



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First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

HOUSE BILL No. 1139

A BILL FOR AN ACT to amend the Indiana Code concerning human services.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 12-10-6-1 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. (a) An individual
3 who:
4 (1) is at least sixty-five (65) years of age, blind, or disabled; and
5 (2) is a resident of a county home;
6 is eligible to receive assistance payments from the state if the
7 individual would be eligible for assistance under the federal
8 Supplemental Security Income program except for the fact that the
9 individual is residing in a county home.
10 (b) The amount of nonmedical assistance to be paid on behalf of a
11 resident in a county home must be based on the daily rate established
12 by the division. The rate for facilities under this section and licensed
13 under IC 16-28 may not exceed an upper rate limit established by a rule
14 adopted by the division.
15 (c) The rate for facilities under this section but not licensed under
16 IC 16-28 must be the lesser of:
17 (1) an upper rate limit established by a rule adopted by the



division; or

(2) a reasonable and adequate rate to meet the costs, determined by generally accepted accounting principles, that are incurred by efficiently and economically operated facilities in order to provide care and services in conformity with quality and safety standards and applicable laws and rules.

(d) The recipient shall be paid or allowed to retain from the recipient's income a **monthly** personal allowance in an amount to be established by the division. **The division shall adjust the amount annually to account for the immediately preceding year's increase in prices using the Consumer Price Index for All Urban Consumers of the Bureau of Labor Statistics of the United States Department of Labor.** The amount:

~~(1) may be not less than twenty-eight dollars and fifty cents (\$28.50) and not more than thirty-five dollars (\$35) monthly;~~

~~(2) (1)~~ is exempt from income eligibility consideration by the division; and

~~(3) (2)~~ may be exclusively used by the recipient for personal needs.

(e) In addition to the amount that may be retained as a personal allowance under this section, an individual is allowed to retain an amount equal to the individual's state and local income tax liability. The amount that may be retained during a month may not exceed one-third (1/3) of the individual's state and local income tax liability for the calendar quarter in which the month occurs. This amount is exempt from income eligibility consideration by the division. The amount retained shall be used by the individual to pay state or local income taxes owed.

(f) The division of disability, aging, and rehabilitative services, in cooperation with the state department of health taking into account licensure requirements under IC 16-28, shall adopt rules under IC 4-22-2 governing the reimbursement to facilities under this section. The rules must be designed to determine the costs that must be incurred by efficiently and economically operated facilities to provide room, board, laundry, and other services, along with minimal administrative direction to individuals who receive residential care in the facilities under this section. A rule adopted under this subsection by:

(1) the division; or

(2) the state department of health;

must conform to the rules for residential care facilities that are licensed under IC 16-28.

(g) A rate established under this section may be appealed according



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to the procedures under IC 4-21.5.

(h) The division shall annually review each facility's rate using the following:

(1) Generally accepted accounting principles.

(2) The costs incurred by efficiently and economically operated facilities in order to provide care and services in conformity with quality and safety standards and applicable laws and rules.

SECTION 2. IC 12-10-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. (a) An individual who is incapable of residing in the individual's own home may apply for residential care assistance under this section. The determination of eligibility for residential care assistance is the responsibility of the division. Except as provided in subsections (f) and (h), an individual is eligible for residential care assistance if the division determines that the individual:

(1) is a recipient of Medicaid or the federal Supplemental Security Income program;

(2) is incapable of residing in the individual's own home because of dementia, mental illness, or a physical disability;

(3) requires a degree of care less than that provided by a health care facility licensed under IC 16-28; and

(4) can be adequately cared for in a residential care setting.

(b) Individuals suffering from mental retardation may not be admitted to a home or facility that provides residential care under this section.

(c) A service coordinator employed by the division may:

(1) evaluate a person seeking admission to a home or facility under subsection (a); or

(2) evaluate a person who has been admitted to a home or facility under subsection (a), including a review of the existing evaluations in the person's record at the home or facility.

If the service coordinator determines the person evaluated under this subsection is mentally retarded, the service coordinator may recommend an alternative placement for the person.

(d) Except as provided in section 5 of this chapter, residential care consists of only room, board, and laundry, along with minimal administrative direction. State financial assistance may be provided for such care in a boarding or residential home of the applicant's choosing that is licensed under IC 16-28 or a Christian Science facility listed and certified by the Commission for Accreditation of Christian Science Nursing Organizations/Facilities, Inc., that meets certain life safety standards considered necessary by the state fire marshal. Payment for



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such care shall be made to the provider of the care according to division directives and supervision. The amount of nonmedical assistance to be paid on behalf of a recipient living in a boarding home, residential home, or Christian Science facility shall be based on the daily rate established by the division. The rate for facilities that are referred to in this section and licensed under IC 16-28 may not exceed an upper rate limit established by a rule adopted by the division. The recipient may retain from the recipient's income a **monthly** personal allowance in an amount to be established by the division. ~~but not less than twenty-eight dollars and fifty cents (\$28.50) or more than thirty-five dollars (\$35) monthly.~~ **The division shall adjust the amount annually to account for the immediately preceding year's increase in prices using the Consumer Price Index for All Urban Consumers of the Bureau of Labor Statistics of the United States Department of Labor.** This amount is exempt from income eligibility consideration by the division and may be exclusively used by the recipient for the recipient's personal needs. However, if the recipient's income is less than the amount of the personal allowance, the division shall pay to the recipient the difference between the amount of the personal allowance and the recipient's income. A reserve or an accumulated balance from such a source, together with other sources, may not be allowed to exceed the state's resource allowance allowed for adults eligible for state supplemental assistance or Medicaid as established by the rules of the office of Medicaid policy and planning.

(e) In addition to the amount that may be retained as a personal allowance under this section, an individual shall be allowed to retain an amount equal to the individual's state and local income tax liability. The amount that may be retained during a month may not exceed one-third (1/3) of the individual's state and local income tax liability for the calendar quarter in which that month occurs. This amount is exempt from income eligibility consideration by the division. The amount retained shall be used by the individual to pay any state or local income taxes owed.

(f) The rate of payment to the provider shall be determined in accordance with a prospective prenegotiated payment rate predicated on a reasonable cost related basis, with a growth of profit factor, as determined in accordance with generally accepted accounting principles and methods, and written standards and criteria, as established by the division. The division shall establish an administrative appeal procedure to be followed if rate disagreement occurs if the provider can demonstrate to the division the necessity of costs in excess of the allowed or authorized fee for the specific



boarding or residential home. The amount may not exceed the maximum established under subsection (d).

(g) The personal allowance for one (1) month for an individual described in subsection (a) whose employment is part of the individual's personal habilitation plan or who is working in a sheltered workshop or day activity center is the amount that an individual would be entitled to retain under subsection (d) plus an amount equal to one-half (1/2) of the remainder of:

(1) gross earned income for that month; minus

(2) the sum of:

(A) sixteen dollars (\$16); plus

(B) the amount withheld from the person's paycheck for that month for payment of state income tax, federal income tax, and the tax prescribed by the federal Insurance Contribution Act (26 U.S.C. 3101 et seq.); plus

(C) transportation expenses for that month.

(h) An individual who, before September 1, 1983, has been admitted to a home or facility that provides residential care under this section is eligible for residential care in the home or facility.

(i) The director of the division may contract with the division of mental health or the division of disability, aging, and rehabilitative services to purchase services for individuals suffering from mental illness or a developmental disability by providing money to supplement the appropriation for community residential care programs established under IC 12-22-2 or community residential programs established under IC 12-11-1-1.

(j) A person with a mental illness may not be placed in a Christian Science facility listed and certified by the Commission for Accreditation of Christian Science Nursing Organizations/Facilities, Inc., unless the facility is licensed under IC 16-28.

SECTION 3. IC 12-15-7-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. ~~Not less than twenty-eight dollars and fifty cents (\$28.50) or more than thirty-five dollars (\$35) monthly may be~~ **The amount established by the office under section 1 of this chapter is** exempt from income eligibility consideration. **The office shall annually adjust the amount established by the office under section 1 of this chapter to account for the immediately preceding year's increase in prices using the Consumer Price Index for All Urban Consumers of the Bureau of Labor Statistics of the United States Department of Labor.**

SECTION 4. IC 12-15-32-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 6. The office shall



1 allow a resident of a facility who is receiving Medicaid to retain a
 2 **monthly** personal allowance ~~of at least twenty-eight dollars and fifty~~
 3 ~~cents (\$28.50) but not more than fifty dollars (\$50) each month. in an~~
 4 **amount determined by the office. The amount must be adjusted**
 5 **annually to account for the immediately preceding year's increase**
 6 **in prices using the Consumer Price Index for All Urban Consumers**
 7 **of the Bureau of Labor Statistics of the United States Department**
 8 **of Labor.**

9 SECTION 5. [EFFECTIVE JULY 1, 1999] (a) Notwithstanding
 10 IC 12-10-6-1, IC 12-10-6-2, IC 12-15-7-2, and IC 12-15-32-6, all as
 11 amended by this act, and IC 12-15-7-1, the amount a recipient is
 12 allowed to retain as a monthly personal allowance on July 1, 1999,
 13 is sixty-two dollars and thirty-five cents (\$62.35).

14 (b) Notwithstanding IC 12-10-6-1, IC 12-10-6-2, IC 12-15-7-2,
 15 and IC 12-15-32-6, all as amended by this act, and IC 12-15-7-1, the
 16 amount a recipient is allowed to retain as a monthly personal
 17 allowance shall be adjusted after July 1, 1999, but before October
 18 1, 1999, using the Consumer Price Index for All Urban Consumers
 19 of the Bureau of Labor Statistics of the United States Department
 20 of Labor to account for the increase in prices from July 1, 1998, to
 21 July 1, 1999.

22 (c) This SECTION expires July 1, 2000.

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